REMARKS

I. INTRODUCTION

Claims 1-11 remain pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. §103 REJECTIONS SHOULD BE WITHDRAWN

Claims 1-3, 5-8 and 10-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,553,568 to Fijolek et al. (hereinafter Fijolek) in view of U.S. Patent No. 6,603,758 to Schmuelling et al. (hereinafter Schmuelling).

Fijolek discloses a system and method for enforcing service level agreements (SLAs) for a data-over-cable system. A subscriber may enter into a SLA with a network provider that specifies a particular class of service and/or a particular quality of service. The subscriber may elect to participate in one of the many SLAs of varying service classes / qualities. Each SLA is associated with a pool of network addresses and each network device is associated with a configuration file that indicates the SLA of the subscriber. Based on the configuration file, a network address is assigned to the network device from the pool of network addresses associated with the selected SLA. A cable modem termination system, which includes an integral switch cable access router and a bandwidth manager, enforces the restrictions of the SLA. The router enforces the maximum rate limits of the SLA, while the bandwidth manager regulates the class of service / quality of service by monitoring the usage trends and modifying the network traffic according to the different levels of SLAs.

Schmuelling enables cable subscribers to choose the type of cable modem and the ISP provider for their cable data service. A cable-modem infrastructure (CMI) is configured to provide a bi-directional connection between local cable networks and the Internet. (*See* Schmuelling, col. 2, lines 41-45). The CMI permits only those subscribers who are registered with Internet Service Providers (ISPs) approved by the cable company to access the Internet. The

CMI checks whether a subscriber is registered and whether the subscriber uses an approved ISP by obtaining and checking the media-access control (MAC) address of the subscriber's network device. (*See* Schmuelling, col. 6, lines 24-34). If the obtained MAC address can be located within a database of registered MAC addresses and that the obtained MAC address is associated with an approved ISP, only then is the subscriber permitted to access the Internet. The CMI can also help subscribers register and negotiate a service plan with the ISP. The subscriber may enter into a service agreement with the selected ISP via the CMI. After an agreement has been made, the CMI registers the MAC address of the subscriber's network device and assigns a routable IP address. (*See* Schmuelling, col. 8, lines 6-42).

Claim 1 of the present invention recites a method of operating an access network infrastructure in connection with a plurality of service networks comprising the steps of:

> creating a service policy message specifying a service class for communications with a network access device **after notification that a network address, associated with a service network, has been allocated to the network access device;**
>
> transmitting the service policy message to a service policy enforcement point in the access network infrastructure.
>
> (*Emphasis added.*)

The Examiner correctly stated that "Fijolek fails to disclose that the service policy message is created and transmitted after a network address associated with a service network has been allocated to the network access device and also fails to disclose that the access network infrastructure is connected to a plurality of service networks." (Office Action, p. 2). However, the Examiner attempts to cure the deficiencies of Fijolke with Schmuelling. The Examiner cites Schmuelling and states that "[it] teaches that service policies can be assigned to individual users within a larger service class, such as giving a certain user a higher priority than others in the same class." (Office Action, p.3)(citations omitted). Relying on this single citation, the Examiner makes multiple-stage inferences to reach the conclusion that "[t]he service policy message would

have to be generated and transmitted after the IP assignment has taken place to support individual service policies." (*Id.* at p.3). Applicants respectfully disagree with the Examiner's rejection.

The present invention, as described in claim 1, is a method of operating an access network infrastructure in connection with a plurality of service networks including creating and transmitting a service policy message **after notification that a network address, associated with a service network, has been allocated to the network access device.** Schmuelling neither discloses nor suggests creating and/or transmitting a service policy message after notification that a network address, associated with a service network, has been allocated to the network access device. On the contrary, Schmuelling teaches away from creating a service policy message **after** receiving a network address. Schmuelling notifies, and thus generates, a service policy message to the CMI **prior to obtaining a routable IP address.** (*See* Schmuelling, col. 7, lines 63-67 and col. 8, lines 1-42). The citation of Schmuelling relied upon by the Examiner describes the registration process where users select the parameters (i.e., service class, service quality, ISP, IP class) of their service policies. (*See* Schmuelling, col. 7, lines 52-62). During the registration process, the user provides a selection of service class and/or IP class, each of which is associated with a pool of IP addresses, but not a particular IP address. (*See id.* at col. 7, lines 56-60). A user of Schmuelling may review a list of available IP addresses and select a particular pool of addresses, but may not select a particular IP address for his computer or network access device. Subsequent to the registration process, a notice or service policy message is created prior to assigning a particular IP address to the network access device. Schmuelling assigns a specific routable IP address only after receiving the service policy message. (*See id.* at col.7, lines 65-67 and col. 8, lines 1-42). Thus, the service policy message in Schmuelling is created and transmitted to the ISP **before** notification that a routable network address, associated with a service network, has been allocated to the network access device. Accordingly, applicants respectfully submit that Schmuelling neither teaches or suggests "creating a service policy message specifying a service class for communications with a network access device after notification that a network address, associated with a service network, has been allocated to the network access device" as recited in claim 1 of the present invention. Therefore, applicants

respectfully request that the Examiner withdraw the rejection of claim 1 and all claims depending therefrom (claims 2-3, 5-8 and 10-11).

The Examiner rejected claim 4 as being unpatentable over Fijolek in view of Schmuelling in further view of UROnramp.net. The Examiner has also rejected claim 9 as being unpatentable over Fijolek in view of Schmuelling and further in view of U.S. Patent 6,636,894 to Short et al. As discussed above, Fijolek in view of Schmuelling does not teach or suggest each and every element of claim 1. Because claims 4 and 9 depend from claim 1, applicants respectfully submit that these deficiencies also apply to claims 4 and 9 and request that the Examiner withdraw the §103 rejections of claims 4 and 9.

III. CONCLUSION

In light of the foregoing, the applicants respectfully submit that all of the pending claims are in condition for allowance. All issues raised by the Examiner have been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: 9/28/04

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